

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

WALTER G. LENARD
and RUSELL CHANEY

PLAINTIFFS

VS.

CIVIL ACTION NO. 5:11-cv-120(DCB)(JMR)

STATE OF MISSISSIPPI, et al.

DEFENDANTS

ORDER

This cause is before the Court on the plaintiffs Walter G. Lenard and Russell Chaney's motion for service of process (**docket entry 14**). Inasmuch as a Report and Recommendation was filed on February 20, 2013, recommending that the instant action be dismissed sua sponte as barred by res judicata and Heck v. Humphrey, 512 U.S. 477 (1994); and inasmuch as dismissal of this action would moot the plaintiffs' motion for service of process, the court finds that the motion should be denied without prejudice to allow the plaintiffs to renew their motion if their lawsuit is allowed to proceed further. Accordingly,

IT IS HEREBY ORDERED that the plaintiffs Walter G. Lenard and Russell Chaney's motion for U.S. Marshall to serve each defendant (**docket entry 14**) is DENIED WITHOUT PREJUDICE.

SO ORDERED, this the 14th day of March, 2013.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE